

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FREDRICK ERNEST GRAHAM,)
Plaintiff,)
v.) No. 4:24-cv-01662-RHH
U.S. SENATE, et al.,)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court for preliminary review. On December 6, 2024, Plaintiff Fredrick Ernest Graham instituted this action with a handwritten document titled “18 U.S.C. § 3583.” (ECF No. 1). In this filing, Plaintiff asks the Court to vacate his sentence, remove his ankle monitor, and terminate his probation. (*Id.*). He does not specify the criminal proceeding underlying his claims and names only the United States Senate as a defendant.¹ *Id.*

Deficiencies

It is unclear whether Plaintiff intends to bring a civil rights action under 42 U.S.C. § 1983 or seek habeas relief under 28 U.S.C. § 2255. Regardless of his intent, the filing is procedurally deficient because: (1) it was not submitted on a Court-approved form as required by Local Rule 2.06(A); and (2) Plaintiff has neither paid a filing fee nor submitted an application to proceed *in forma pauperis*. For these reasons, the Court will require Plaintiff to submit an amended pleading on the appropriate form.

¹ The complaint names “U.S. Senate, et al.” but does not identify any additional defendants.

Filing Options and Requirements

Civil Rights Action (§ 1983). If Plaintiff intends to pursue a claim under § 1983, he must file an amended pleading using the attached “Civil Complaint” form. Additionally, he must either pay the \$405 filing fee or submit the attached “Application to Proceed in District Court without Prepaying Fees or Costs.”

Habeas Relief (§ 2255). If Plaintiff seeks to challenge his federal sentence under § 2255, he must file an amended pleading using the attached “Motion under 28 U.S.C. § 2255” form. There is no filing fee for a § 2255 motion.

Plaintiff is advised that § 2255 motions are subject to a one-year statute of limitations, which generally begins running on the date the judgment of conviction becomes final. *See* 28 U.S.C. § 2255(f); *Mora-Higuera v. United States*, 914 F.3d 1152, 1154 (8th Cir. 2019). The Court’s records show that Plaintiff was sentenced to 105 months’ imprisonment on February 3, 2016, following his conviction for possession of a firearm as a felon. *See United States v. Fredrick Ernest Graham*, No. 4:14-cr-00333-RLW-1 (E.D. Mo. 2017) (ECF No. 144).² If Plaintiff seeks to challenge this conviction under § 2255, he must explain on page 11 of the § 2255 form why his filing should not be dismissed as untimely.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff must, **within thirty (30) days** of the date of this Order, file an amended pleading on the appropriate Court-approved form. If pursuing a § 1983 claim, Plaintiff shall either pay the \$405 filing fee or submit a completed “Application to Proceed in District Court without Prepaying Fees or Costs.” If pursuing relief under § 2255, he shall explain

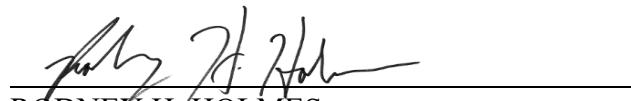
² The Court takes judicial notice of Plaintiff’s criminal proceeding. *See United States v. Jackson*, 640 F.2d 614, 617 (8th Cir. 1981) (stating that a court may take judicial notice of its own records) (citations omitted).

why this action should not be dismissed as untimely. Failure to comply with this Order will result in the dismissal of this action without prejudice and without further notice.

IT IS FURTHER ORDERED that the Clerk of Court shall mail to Plaintiff a copy of the following forms:

- Civil Complaint (MOED-0032)
- Motion under 28 U.S.C. § 2255 (AO-0243)
- Application to Proceed in District Court without Prepaying Fees or Costs (MOED-0046)

Dated this 16th day of December, 2024.



RODNEY H. HOLMES
UNITED STATES MAGISTRATE JUDGE